

SENATE FINANCE COMMITTEE

May 6, 2019

9:01 a.m.

9:01:20 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Peter Micciche
Senator Mike Shower
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

Senator Donny Olson

ALSO PRESENT

Juli Lucky, Staff, Senator Natasha von Imhof; Sylvan Robb, Administrative Services Director, Department of Corrections, Office of Management and Budget; Representative John Lincoln, Sponsor; Representative Tammie Wilson, Sponsor; Nils Andreasen, Executive Director, Alaska Municipal League; Senator Cathy Giessel; Elwin Blackwell, School Finance Manager, Department of Education and Early Development; Tim Mearig, Facilities Director, Department of Education and Early Development.

PRESENT VIA TELECONFERENCE

Jim Anderson, Anchorage School District, Anchorage.

SUMMARY

SB 91 NUYAKUK RIVER: HYDROELECTRIC SITE

CSSB 91(FIN) was REPORTED out of committee with a "no recommendation" recommendation and with one previously published fiscal impact note: FN 1(DNR).

CSHB 14(FIN)

ASSAULT; SEX OFFENSES; SENT. AGGRAVATOR

SCS CSHB 14(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact from the Department of Corrections; one new zero fiscal note from the Alaska Judicial System; one new Statement of Zero Fiscal Impact for the Department of Health and Social Services, the Department of Law, and the Department of Public Safety; and two previously published indeterminate fiscal notes: FN 8(ADM), FN 9(ADM).

HB 106 SCHOOL BOND DEBT REIMBURSEMENT

HB 106 was HEARD and HELD in committee for further consideration.

#hb14

CS FOR HOUSE BILL NO. 14(FIN)

"An Act relating to assault in the first degree; relating to harassment; relating to sex offenses; relating to the definition of 'dangerous instrument'; providing for an aggravating factor at sentencing for strangulation that results in unconsciousness; relating to the duties of the prosecuting attorney; and relating to victim notifications."

9:02:00 AM

Co-Chair von Imhof relayed that the committee had heard the Senate version of the bill (SB 14) on May 11, 2019; and SB 14 was heard on May 4, 2019.

9:02:54 AM

JULI LUCKY, STAFF, SENATOR NATASHA VON IMHOF, spoke to the changes in the committee substitute (CS). She discussed the Explanation of Changes document (copy on file):

The word "ejaculate" is replaced with "semen" to better conform to current statute and legal precedent and that term is defined. [P3, Line 6 and new §5: P3, Lines 17-19]

The rest of the changes relate to granting credit against a sentence for time spent in treatment or on electronic monitoring (EM), which necessitates a title change and conforming changes to the applicability language in section 11. [New §6 & §7]

Current AS 12.55.027(g) allows offenders guilty of certain serious crimes to receive limited credit for time spent on Electronic Monitoring (EM). SCS HB 14 (FIN) prohibits credit for EM for those specified crimes but clarifies that credit can be granted when the defendant is on EM while participating in residential treatment. Sex offenders are removed from this list and cannot get credit for time spent in treatment OR on EM. [P3, Line 21 - P4, Line 4]

Further clarifies in (j) that judges will determine whether the sentence meets the declaration of purpose criteria listed in AS 12.55.005 before granting credit and in (k) that time cannot be "double counted" if a defendant was on EM while receiving treatment. [P4, Lines 5-11].

[9:05:53 AM](#)

Ms. Lucky stated that the language in (j) and (k) was clarifying language meant to provide direction to the court. She relayed that a title change resolution would be needed if the CS were adopted by the committee, as well as applicability changes in Section 11. She added that the adoption of the CS would change the fiscal notes.

[9:07:24 AM](#)

Co-Chair von Imhof solicited comments from the committee.

Senator Micciche understood that the bill defined strangulation to the point of unconsciousness as a crime, as well as other changes. He shared that he supported the electronic monitoring language.

[9:09:24 AM](#)

Senator Hoffman directed attention to the most recent adoption of Section K, which specified that the electronic monitoring and treatment programs did not have to be run simultaneously. He asked whether the intent of the bill was to allow for the credits to be claimed simultaneously.

Ms. Lucky stated that the intent of the section was that if a person was under electronic monitoring and in treatment simultaneously, credit could not be given for both. She stressed that the issue had been debated rigorously and it had been decided that if a person had a period of electronic monitoring while not in treatment, or vice versa, they could request credit for what was available under the law. She noted that some crimes did not allow for electronic monitoring credit. She said that if the offender was in treatment on the same day as they were under electronic monitoring, they could not count it as two days of credit.

[9:11:29 AM](#)

Senator Micciche reminded that the combination would be for other crimes and not the crimes on the list of "serious crimes" as defined in the CS. For serious crimes, credit could only be given for time spent in treatment.

[9:12:25 AM](#)

Ms. Lucky reviewed FN 8 from the Department of Administration, OMB Component 43. The note was indeterminate because the Office of Public Assistance could not speak to how many new cases it might take on in the out years.

Ms. Lucky reviewed FN 9 from Department of Administration, OMB Component 1631. She noted that the note was indeterminate for the same reasons as FN 8.

Ms. Lucky reviewed a Statement of Zero Fiscal Impact, which replaced all the individual zero fiscal notes in the packet, these notes reflect that no changes in regulation and/or costs will be absorbed by the departments. The departments included the Department of Health and Social Services, Department of Law, and Department of Public Safety.

Ms. Lucky addressed a new fiscal note from the Judiciary, OMB Component 768. She noted that the note was not included in the consolidated zero notes as it was not part of the executive branch.

Ms. Lucky addressed a new fiscal impact note from Department of Corrections, OMB Component 1381. She relayed that the department would address the note.

[9:15:16 AM](#)

SYLVAN ROBB, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF CORRECTIONS, OFFICE OF MANAGEMENT AND BUDGET, addressed the new fiscal impact note from the Department of Corrections. She noted that the fiscal note was a draft. The changes to the note from the previously published note related to credit for electronic monitoring. The removal of credit for electronic monitoring would result in several individuals spending additional time in correctional facilities. She said that the department projected that the change would impact 363 defendants that had previously received credit for EM, and those individuals would spend an additional 36.6 days in incarceration, increasing the daily population by 35.5 inmates. She furthered that the cost for the inmates had been calculated at the marginal rate of \$44.98 per day. She stated that after talking with the Deputy Director of Health and Rehabilitation Services and the Director of Probation, Parole, and Pre-Trial, failed to result in data on how many individuals attended residential treatment pre-trial. A projected estimate, without actual data, was that 10 percent would receive the credit, which would bring the projected increase to the daily population down from 35.5 to 32.

[9:18:08 AM](#)

REPRESENTATIVE JOHN LINCOLN, SPONSOR, thought the CS made the bill stronger and better, particularly with regards to electronic monitoring. He thanked the committee for working on the bill.

[9:19:02 AM](#)

Co-Chair Stedman was appreciative of the thanks and of the work between the house and the senate. He noted that it was the sponsor's birthday.

Representative Lincoln acknowledged Senator Micciche's work on the bill. He appreciated the collaborative nature of their working relationship.

[9:20:29 AM](#)

Senator Micciche MOVED to ADOPT proposed committee substitute for CSHB 14, Work Draft 31-LS0182\H (Radford, 5/5/19). There being NO OBJECTION, it was so ordered.

Co-Chair von Imhof noted that there were invited testifiers online to answer questions.

[9:21:31 AM](#)

Senator Micciche offered brief a brief closing statement on the legislation.

Senator Micciche MOVED to report SCS CSHB 14(FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SCS CSHB 14(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact from the Department of Corrections; one new zero fiscal note from the Alaska Judicial System; one new Statement of Zero Fiscal Impact for the Department of Health and Social Services, the Department of Law, and the Department of Public Safety; and two previously published indeterminate fiscal notes: FN 8(ADM), FN 9(ADM).

#sb91

SENATE BILL NO. 91

"An Act relating to the development and operation of a hydroelectric site at the Nuyakuk River Falls; providing for the amendment of the management plan for the Wood-Tikchik State Park; and providing for an effective date."

[9:23:45 AM](#)

Co-Chair von Imhof relayed that the bill had been previously heard on April 30, 2019. Public testimony had been taken and was closed.

9:24:30 AM

Ms. Lucky discussed the proposed changes to the bill. She emphasized that the intent of the bill had not changed. She spoke to an Explanation of Changes document (copy on file):

AS 41.21.161 Establishes the Wood-Tikchik State Park;
AS 41.21.167 lists incompatible uses and specifies certain uses that are allowed (or "not considered an incompatible use").

The previous version of SB91 simply added Nuyakuk River Falls to existing section (c), which allowed development and operation of a hydroelectric site and Lake Elva or Grant Lake.

The proposed CS puts this project in its own section (e) and defines specific conditions for this site, listed on page 1, lines 8-11, in order to respond to local concerns about this project.

Ms. Lucky stated that the conditions for the site included in the new subsection were as follows:

- (e) The development and operation of a hydroelectric site at the Nuyakuk River Falls is a compatible use if the development and operation
 - (1) does not include a dam that fully spans a river;
 - (2) maintains at least 70 percent of the daily upstream water flow of an affected river along the natural course of the river; and
 - (3) after July 1, 2024, is licenses by the Federal Energy Regulatory Commission

9:26:42 AM

Senator Hoffman thanked Co-Chair von Imhof's office for accommodating the conditions. He supported adoption of the CS.

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for SB 91, Work Draft 31-LS0520\S (Wallace, Fisher, 5/4/19). There being NO OBJECTION, it was so ordered.

CSSB 91(FIN) was REPORTED out of committee with a "no recommendation" recommendation and with one previously published fiscal impact note: FN 1(DNR).

#hb106

HOUSE BILL NO. 106

"An Act relating to school bond debt reimbursement."

[9:28:29 AM](#)

AT EASE

[9:29:34 AM](#)

RECONVENED

REPRESENTATIVE TAMMIE WILSON, SPONSOR, explained that House Bill 106 would extend the termination date for the school bond debt

Co-Chair von Imhof explained that currently there was a moratorium on school bond debt reimbursement through 2020, the bill would extend it an additional 5 years.

[9:31:08 AM](#)

[9:31:19 AM](#)

Co-Chair von Imhof OPENED public testimony.

[9:31:35 AM](#)

JIM ANDERSON, ANCHORAGE SCHOOL DISTRICT, ANCHORAGE (via teleconference), spoke in opposition to the bill. He explained that the current house budget already cut prior year bond debt reimbursement by 50 percent going back 20 years. He said that adding the additional burden on receiving no debt assistance through 2025 would put the onus on Anchorage taxpayers. He stated that shifting the state's responsibility for bond debt did not decrease the requirement but shifted it to those living in incorporated areas. He stressed that supporting education meant supporting the operation of school, the people in them, and their capital needs.

[9:33:06 AM](#)

Co-Chair Stedman understood that the bill would be a moratorium on adding new reimbursement requirements onto the state going forward. He did not think the bill impacted the accumulated school construction already undertaken. The state would still annually consider how much debt the state would be reimbursing. He wanted to clarify for the public that the bill would block new projects from being added until an alternative policy could be crafted.

Co-Chair von Imhof affirmed that Co-Chair Stedman was correct, and the bill was a look forward and not a look back. She asked whether the Anchorage School District had done an excess capacity analysis on its 60 elementary schools.

[9:34:24 AM](#)

Mr. Anderson answered in the affirmative and specified that the school board had been briefed in the fall. It had been recommended that the Mount Spur school should be closed, and some programs should be merged. He related that the recommendation had been based on the city planner's assessments on sum population growth in certain areas over the next 20 years. He said that the analysis would be done annually in the future. He thought that closing schools was an emotional issue but believed that if membership continued to decrease more schools would be closed.

Co-Chair von Imhof recalled that the body passed a bill the previous year allowing for school closures and holding harmless the revenue for a step-down of four years. The intent had been to encourage schools to have conversations about capturing capacity in schools. She thought that if emotions ran high and people did not want to close their local schools - that was a choice that board would have to make, and the cost would be passed onto the local taxpayers. She asserted that the control was within the school district to make the decision whether to maintain 60 elementary schools, 8 middle schools and 8 high schools.

[9:36:57 AM](#)

Senator Micciche looked at the table on the document titled "State Portion Reimbursement Principal and Interest," (copy on file). He was curious about the proportion related to major maintenance versus new school construction of the

\$800 million in bond debt. He noted the disparity between organized and unorganized boroughs.

[9:38:35 AM](#)

NILS ANDREASEN, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL LEAGUE, relayed that the Department of Education and Early Development's (DEED) 6-year plan showed \$464 million in needs for FY20; \$189 million in needs for FY21; and an average over the next 6 years of \$231 million. For the 355 projects listed the total in upgrades was \$1.4 billion. He said that the requests that had been submitted by school districts did not account for the full scope of need, only priorities relative to each budget year, and were not included in the state's deferred maintenance numbers. For the school construction program DEED showed the average need between FY15 and FY20 was \$234 million, with an average of \$230 million paid over those years. He furthered that the number of schools funded by the \$190 million in FY20 was approximately 6, the school bond debt reimbursement for that same year of under \$100 million accounted for nearly 30 schools. He stressed that without the reimbursement those districts able to bond for the debt would have to compete with REA school districts for funding, or other municipal school districts that lacked the tax base to bond for a greater share of debt. He asked how the state identified the unaversive need and what was the plan to address the need. He believed that the proposed moratorium did not meet the state's constitutional obligations. He thought that the 5-year extension was nothing but a recognition that the state did not have a plan to address new school construction. He believed that the legislature could seek other options that would benefit both the state and municipal districts.

[9:42:34 AM](#)

[9:42:42 AM](#)

Co-Chair von Imhof CLOSED public testimony.

[9:43:21 AM](#)

Senator Micciche thought the state could not afford new schools and he would likely support a moratorium of some kind. He asked what percentage of the debt had to do with

new schools, and how much had to do with maintenance of old schools.

ELWIN BLACKWELL, SCHOOL FINANCE MANAGER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, said that he would get back to the committee with the information.

[9:45:23 AM](#)

Senator Micciche guessed that there needed to be a separation of new construction and major maintenance of existing schools when it came to bond debt reimbursement.

[9:46:10 AM](#)

Co-Chair von Imhof asked whether DEED travelled the state to inspect the condition of schools and how well the buildings were being maintained. She wondered whether there were degrees of differences with regard to maintenance.

TIM MEARIG, FACILITIES DIRECTOR, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, stated that statute provided for the department to have an ongoing inspection process with districts to ensure that minimum standards of care were met. The division had an individual that travelled to ten school districts per year to evaluate the compliance with facility and maintenance practices and retain eligibility for bond reimbursement and grants. He had not seen a great deal of disparity in the condition of buildings of the same age. He admitted that older buildings were more challenging.

[9:48:51 AM](#)

Co-Chair von Imhof assumed that the department had a list of all the buildings and a matrix through which the buildings were prioritized based on age and condition.

Mr. Mearig stated that the state did not have a comprehensive facility evaluation tool or requirement. The state required a district to have an understanding and condition of facilities. He said that in the Capital Renewal portion of the Minimum Standards each district was required to understand the age and capital needs of their facilities that were over 1000 square feet.

[9:50:23 AM](#)

Co-Chair von Imhof believed the state built a school for Healy Lake; after which the population dropped, and the school was not opened.

Mr. Mearig replied that he did not have enough information to comment on the school at Healy Lake.

Co-Chair von Imhof requested further information on whether the state was paying to maintain, heat, or insure the building, and whether there was a plan for the building.

[9:51:06 AM](#)

Co-Chair Stedman wanted to know how many schools were close to the minimum count of 10 students. He agreed with Senator Micciche's request for a breakdown of the reimbursement requests. He wanted to add a request for a per capita numeric. He used examples of the debt carried by Sitka and Ketchikan. He asserted that his region needed students and not new schools, but the Mat-Su was the opposite. He reminded that K-12 education was a constitutional requirement.

[9:54:33 AM](#)

Senator Shower appreciated the comments from the co-chairs and supported the concept of the bill. He agreed that the Mat-Su was growing. He had spoken to several individuals in the educational system. He discussed his educational background in the State of Florida. He thought that the committee needed more data in order to make decisions.

[9:56:22 AM](#)

Senator Bishop remarked that the committee had had the same conversation thirty years previously. He mentioned Rampart School was closed for a period of ten years, after which population grew and the school reopened. He asserted that there was nothing static about the equation.

[9:57:30 AM](#)

Co-Chair von Imhof thought it was important to use data to drive policy decisions. She suggested that if DEED wanted assistance from the committee, more data would be necessary. She asserted that school maintenance data should be entered into a database. She thought the age of a school

building was irrelevant. She thought some schools fared better than others over time due to weather or other factors. She reiterated the need for DEED to provide further information.

[9:59:36 AM](#)

Senator Bishop addressed FN 1 from Debt Service, OMB Component 153. The note had zero fiscal impact.

Co-Chair von Imhof set the bill aside.

HB 106 was HEARD and HELD in committee for further consideration.

[10:00:27 AM](#)

RECESSED

[2:35:24 PM](#)

RECONVENED

#

ADJOURNMENT

[2:35:36 PM](#)

The meeting was adjourned at 2:35 p.m.